

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, INC.,)	CASE NO. 1:19-CV-145
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	MAGISTRATE JUDGE THOMAS M.
)	PARKER
)	
)	
)	
SOUTH UNIVERSITY OF OHIO,)	
LLC, et al.,)	
)	
Defendants.)	

**AMENDED AGREED ORDER SURRENDERING LEASED PREMISES TO ITS
LANDLORD, FLUORINE, LLC, RELIEVING INJUNCTION AND STAY AS AGAINST
FLUORINE, LLC AS TO THOSE LEASED PREMISES AND THE LEASE
AGREEMENT, AND GRANTING RELATED RELIEF**

Upon consideration of the agreement of Mark E. Dottore, the receiver appointed in this case (the "Receiver") under the *Order Appointing Receiver* dated January 18, 2019 (Doc. 8, amended) (the "Receiver Order"), and Intervenor Fluorine, LLC, as evidenced by the signatures of their respective undersigned attorneys, the Court finds and orders as follows:

(1) Fluorine, LLC, ("Fluorine") as Landlord, and Defendant Argosy Education Group, LLC ("AEG") as Tenant, are parties to a Lease Agreement for a portion of 1550 Wilson Boulevard, Arlington, Virginia, 22209 (the "Leased Premises"). A copy of the Lease Agreement, including its amendments and an Assignment and Assumption of Leases, Contracts, and Other Property Interests, (collectively, the "Lease Agreement") are attached to the *Motion of Fluorine, LLC for Limited Relief from Stay Provisions of Order Appointing Receiver*. (Doc. 104) Upon information and belief, Dream Center Education Holdings, LLC

(“DCEH”) became a guarantor of the Lease Agreement on or about October 17, 2017.

(2) AEG is a defendant in this case and is one of the subjects of the receivership under the Receiver Order.

(3) DCEH is a defendant in this case and is one of the subjects of the receivership under the Receiver Order.

(4) On or about January 11, 2019, Fluorine through its attorney in Virginia filed a civil action for eviction in the Arlington County Virginia General District Court seeking rent due and other money damages due and owing under the Lease Agreement, and restoration of the Leased Premises. A copy of the complaint in that matter is attached to Fluorine’s *Motion of Fluorine, LLC for Limited Relief from Stay Provisions of Order Appointing Receiver*. (Doc. 104) This matter is currently stayed pursuant to the Receiver Order.

(5) On March 5, 2019, Fluorine moved to intervene in this action, which motion the Court granted.

(6) Fluorine also filed a *Motion for Leave to Join in the Motion of 3601 Sunflower, LLC to Vacate Injunction and Receiver Order* (Doc. 106), which the Court granted on March 6, 2019.

(7) AEG has now ceased its operations at the Leased Premises.

(8) In view of the above facts, the Receiver and Fluorine have agreed to the relief set forth below, so that Fluorine may retake possession of the Leased Premises. Accordingly, it is hereby

ORDERED that:

(1) Effective at 5:00 p.m. EST on March 15, 2019 (“the Effective Date”),

(a) The Leased Premises and legal possession thereof shall be deemed surrendered voluntarily by AEG, as Tenant under the Lease Agreement to


Fluorine, LLC, as Landlord. Following the Effective Date, Fluorine may change the locks at the Leased Premises and take all desired steps to take possession of and secure the Leased Premises;

- (b) All injunctive provisions and stays contained in the Receiver Order (including, without limitation, paragraphs 9, 10, 14, and to the extent applicable, 20), including as it has been hereafter amended, hereby are relieved and terminated as against Fluorine with respect to the Lease Agreement and the Leased Premises, such that Fluorine may exercise and enforce any and all rights and remedies relating to the Lease Agreement and the Leased Premises as are provided or permitted under the Lease Agreement and applicable law, all the same as if the Receiver Order has never been entered (including, without limitation, prosecuting its claim against AEG and/or DCEH, if applicable, for unpaid rent and damages incurred under the Lease Agreement in the action commenced on or about January 11, 2019 (described more fully above), and further including, but not limited to, prosecuting its eviction claim in that action in the event the Receiver interferes with Fluorine's right to retake and/or secure possession following the Effective Date, and/or filing a claim for the same in these instant proceedings);
- (c) Fluorine shall reasonably cooperate with the Receiver (on behalf of AEG) or with the Receiver's designees, regarding the orderly disposition of (1) any removable personal property or (2) any student records relating to the administration of federal financial aid and all other student records (collectively, "Student Records") that remain at the Leased Premises after the voluntary surrender in paragraph (1)(a) of this Order becomes effective so long as the Receiver takes immediate steps to dispose of the personal property and Student Records so that Fluorine can have full and complete access to the Leased Premises. The Receiver agrees to remove all Student Records from the Leased Premises on or before 5:00 p.m. EST on Monday, April 15, 2019 and file a certification with the Court stating he has removed all Student Records from the Leased Premises. Any personal property except Student Records remaining at the Leased Premises after April 15, 2019, shall be deemed abandoned by the Receiver and the Tenant under the Lease Agreement, and thereafter Fluorine may sell or dispose of such in Fluorine's sole discretion without liability to the Receiver, AEG, DCEH, or anyone claiming by or through them;
- (d) Fluorine's *Motion of Fluorine, LLC for Limited Relief from Stay Provisions of Order Appointing Receiver* (Doc. 104) and Fluorine's *Motion for Leave to Join in the Motion of 3601 Sunflower, LLC to Vacate Injunction and Receiver Order* (Doc. 106) are hereby withdrawn; and
- (e) This Court retains jurisdiction to enforce the terms and provisions of this

Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there is no just cause for delay.

Dated: April 1, 2019



THE HONORABLE THOMAS M.
PARKER UNITED STATES
MAGISTRATE JUDGE

Agreed and Submitted by:

s/ Clare C. Moran

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